

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

-----X
In re application of: Sean Boyle :
Serial No. 10/561,118 :
Filed: December 14, 2005 :
For: A Method and System for Object Tracking :
-----X

Group Art Unit: 2169

Examiner: Patrick A. Darno

ATTORNEY DOCKET NO. 063-P-001
Customer No. 07277

Miskin & Tsui-Yip LLP
1350 Broadway, Suite 802
New York, New York 10018

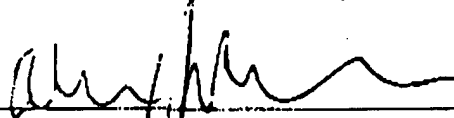
April 14, 2009

MAIL STOP 16
Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REFUND

This is a request for refund, with respect to the fee for the Petition for Extension of Time, charged to the firm's deposit account on March 13, 2009, for the above-identified patent application, for the reasons indicated below.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, on April 14, 2009



ALEXANDRA SIDIROPOULOS

April 14, 2009

Date

I. Fee charged for which refund is requested

| | |
|--|---------------------|
| Petition for Extension of Time (3 month) | \$555 |
| TOTAL FEE REQUESTED | <u>\$555</u> |

II. Explanation of why contested charge is in error

On October 6, 2008, the Patent and Trademark office issued an Office Action in the above referenced application. On February 2, 2009, Applicant timely filed an Amendment in response to an Office Action along with a Petition for a One Month Extension of Time, in duplicate, authorizing the Patent and Trademark Office to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 13-3731. (See, attached Exhibit A). Applicant also submitted a Transmittal Letter, in duplicate, along with the Amendment authorizing the Patent and Trademark Office to charge Deposit Account No. 13-3731 for the one (1) month extension fee (and to credit any overpayment or charge any additional fee required). (See, attached Exhibit B).

On or about March 4, 2009, Applicant's attorney discovered via Private PAIR that the Amendment was not uploaded to application S.N. 10/561,118, but instead was incorrectly uploaded to application S.N. 11/561,118. However, the one month petition was already charged on February 5, 2009 under S.N. 11/561,118 (See, attached Exhibit C). On March 5, 2009, Applicant's attorney called and spoke with the Examiner, who advised that the Amendment be resubmitted in application S.N. 10/561,118 with the appropriate extension of time fee to avoid abandonment and on the assumption that such extension fee would be eventually refunded due to the USPTO's uploading error for the previously timely filed Amendment (with one (1) month extension). On March 10, 2009, Applicant resubmitted the Amendment along with a petition for a three (3) month extension.

The Deposit Account Statement for Deposit Account 13-3731 for March 2009 indicates that the Patent and Trademark Office charged Deposit Account 13-3731 for S.N. 10/561,118 for extension of time twice: on March 13, 2009, in the amount of \$555.00 for the three (3) month extension of time and on March 20, 2009, in the amount of \$65.00 for the one month extension (which is what is properly due). (See, attached Exhibit D.) Note that this later filed Amendment and Petition was never uploaded to S.N. 10/561,118. Id. The USPTO correctly refunded \$65 for S.N. 11/561,118 that was incorrectly charged on February 5, 2009 (See Exhibit C). Since the Amendment was timely filed on February 2, 2009, as reflected on PAIR as received on February 5, 2009 (See Exhibit E), and the corresponding one (1) month extension fee was charged (subsequently on March 20, 2009), Applicant should only be charged \$65 for the one (1) month extension since the USPTO originally erred in uploading the Amendment to the incorrect application.

Applicant respectfully requests that the \$555 charged on March 13, 2009 for the three (3) month extension be refunded.

III. MANNER OF REFUND

Please make a refund by crediting Deposit Account No. 13-3731 for \$555.00.

Respectfully submitted,



Gloria Tsui-Yip, Esq.

Attorney for Applicant

Reg. No. 42,188

MISKIN & TSUI-YIP, LLP

1350 Broadway, Suite 802

New York, NY 10018

(212) 268-0900

EXHIBIT A.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

(Small Entity)

Docket No.

063-P-001

In Re Application Of: Sean Boyle

MAR 13 2009

Application No.

10/561,118

Filing Date

December 14, 2005

Examiner

Patrick A. Darno

Customer No.

07277

Group Art Unit

2169

Confirmation No.

5912

Invention: A Method and System for Object Tracking

COMMISSIONER FOR PATENTS:

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the Office Action of October 6, 2008 in the above-identified application.
Date

The requested extension is as follows (check time period desired):

☐ One month ☐ Two months ☒ Three months ☐ Four months ☐ Five months

from: January 6, 2009
Date

until: April 6, 2009
Date

☒ Applicant claims small entity status. See 37 CFR 1.27

The fee for the extension of time is \$555 and is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 13-3731
☒ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. 13-3731
☐ Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.


Signature

Dated: March 10, 2009

Gloria Tsui-Yip, Esq. (Reg. #42,188)

Miskin & Tsui-Yip LLP
1350 Broadway, Suite 802
New York, NY 10018
(212) 268-0900

03/13/2009 HUUONG1 00000016 133731 10561118

01 FC:2253 555.00 DA

Adjusted date: 06/24/2009 SDIRETAR
03/13/2009 HUUONG1 00000016 133731 10561118
01 FC:2253 555.00 CR

I certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

March 10, 2009

(Date)


Signature of Person Mailing Correspondence

Alexandra Sidiropoulos

Typed or Printed Name of Person Mailing Correspondence